

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**February 22, 2010**

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Scotland, Presiding Justice; Nicholson, Associate Justice; Hull, Associate Justice; and Horner, bailiff.

**C059375      THE PEOPLE v. ex rel.; REISIG, as District Attorney etc. v. THE  
BRODERICK BOYS; ACUNA et al.**

Cause called. Mark E. Merin argued for appellant. Robert C. Nash, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:13 a.m., the court recessed. At 10:14 a.m., the court reconvened with Nicholson, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C058281      THE PEOPLE v. MICHAEL EMMETT HURLBURT**

Cause called. Stephen Greenburg argued for appellant. Jennevee H. De Guzman, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:40 a.m., the court recessed. At 10:41 a.m., the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

**C059103      In re D.S.; THE PEOPLE v. D.S.**

Cause called. Kelly Lynn Babineau, court appointed counsel, argued for appellant. Paul E. O'Connor, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:04 a.m., the court recessed. At 11:07 a.m., the court reconvened with Sims, Associate Justice; Butz, Associate Justice; and Cantil-Sakauye, Associate Justice.

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**Court Minutes**

**February 22, 2010, Continued**

**C056880 THE PEOPLE v. CARLOS TOMAS CAMPAZ, JR.**

Cause called. Madeline McDowell, court appointed counsel, argued for appellant. Carlos A. Martinez, Deputy Attorney General, argued for respondent. Cause submitted.

**CONSOLIDATED WITH**

**C058484 THE PEOPLE v. JOHN DOUGLAS WHITE**

Cause called. Carlos A. Martinez, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:37a.m., the court recessed. At 2:06 p.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Hull, Associate Justice.

**C059723 PERFORMANCE EXCAVATORS INC., et al. v. CLEAVINGER; BEDFORD et al.**

Cause called. Lyman D. Bedford argued for appellant. Arthur B. Mark, III argued for respondent. Cause submitted.

At 2:48 p.m., the court recessed. At 2:50 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Nicholson, Associate Justice.

**C061968 THE PEOPLE v. ALBERTO AVILA SANCHEZ**

Cause called. Susan D. Shors, court appointed counsel, argued for appellant. Paul E. O'Connor, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:05 p.m., the court recessed. At 3:06 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

**C060536 THE PEOPLE v. CHRISTOPHER ELLIS**

Cause called. Jeffrey S. Kravitz argued for appellant. Kari L. Ricci, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:18 p.m., the court recessed until 9:30 a.m., Tuesday, February 23, 2010.

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**Court Minutes**

**February 22, 2010, Continued**

- C061441      THE PEOPLE v.      (Not For Publication)**  
**HERMET DORALLE TRYIAL**  
Probation condition No. 3 is modified... As modified, the judgment is affirmed.  
HULL, J.  
We Concur: Scotland, P.J.  
Nicholson, J.
- C059098      ABDELHAMID v.      (Not For Publication)**  
**FIRE INSURANCE EXCHANGE**  
The judgment is affirmed. Costs on appeal are awarded to respondent.  
(Cal. Rules of Court, rule 8.278 (a) (1) . )  
CANTIL-SAKAUYE, J.  
We Concur: Hull, Acting P.J.  
Robie, J.
- C061570      MIR v. SUPERIOR COURT OF      (Not For Publication)**  
**SACRAMENTO COUNTY; MEDICAL**  
**BOARD OF CALIFORNIA**  
Let a peremptory writ of mandate issue, directing respondent superior court to (1) vacate its order discharging the peremptory writ of administrative mandate, and (2) issue a new peremptory writ of administrative mandate directing the Board to set aside its decision revoking petitioner's license and remanding the matter to redetermine the penalty with directions to allow oral or written argument in accordance with Government Code section 11517, subdivision (c) (2) (E) (ii) . The parties shall bear their own costs on appeal.  
(Cal. Rules of Court, rule 8.493, subd. (a) (1) (B) . )  
BLEASE, Acting P.J.  
We Concur: Butz, J.  
Cantil-Sakauye, J.

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**Court Minutes**

**February 23, 2010**

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Robie, Associate Justice; and Haskett, bailiff.

**C059873      SARALE et al., etc. v. PACIFIC GAS & ELECTRIC COMPANY**

Cause called. Charles E. Keen argued for appellants Sarale et al.. Gregory F. Dyer argued for appellant Wilbur. Frederick Baker argued respondent. Cause submitted.

**CONSOLIDATED WITH**

**C060515      WILBUR, as Trustee, etc. v. PACIFIC GAS & ELECTRIC COMPANY**

Cause called. Charles E. Keen argued for appellants Sarale et al.. Gregory F. Dyer argued for appellant Wilbur. Frederick Baker argued respondent. Cause submitted.

At 10:14 a.m., the court recessed. At 10:17 a.m., the court reconvened with Scotland, Presiding Justice; Sims, Associate Justice; and Butz, Associate Justice.

**C056430      THE PEOPLE v. ABEL GARCIA VENEGAS**

Cause called. Robert L. Marshall argued for appellant. Darren K. Indermill, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:44 a.m., the court recessed. At 10:45 a.m., the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C061503      In re S.S.; THE PEOPLE v. S.S.**

Cause called. Gillian Black, court appointed counsel, argued for appellant. Melissa J. Lipon, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:12 a.m., the court recessed. At 11:13 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

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## February 23, 2010, Continued

**C060456      MARQUEZ v. MEDICAL BOARD OF CALIFORNIA**

Cause called. Justin H. Sanders argued for appellant. Heidi R. Weisbaum, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:48 a.m., the court recessed. At 2:01 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Nicholson, Associate Justice.

**C062111 HOLLYWOOD BUILDING SUPPLY, INC. v. NDULUE; TADDY**

Cause called. Mitchell S. Ostwald argued for cross-appellant. Raymond P. Burton argued for cross-respondent. Jack E. Copp argued for cross-respondent. Cause submitted.

At 2:24 p.m., the court recessed. At 2:26 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Hull, Associate Justice.

**C061435 THE PEOPLE v. RICARDO RAUL VILLA**

Cause called. Gregory Marshall, court appointed counsel, argued for appellant. Harry Joseph Colombo, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:44 p.m., the court recessed until 9:30 a.m., Tuesday, March 23, 2010.

**C061810      THE PEOPLE v.      (Not For Publication)**  
**GARY TYRONE HILL**

The probation condition regarding association with users of narcotics is modified... As so modified, the judgment is affirmed. ...

SCOTLAND, P.J.

We Concur:     Sims, J.

Nicholson, J.

**C062256      THE PEOPLE v. MARIO SUAREZ      (Not For Publication)**

The judgment is affirmed.

ROBIE, J.

We Concur: Hull, Acting P.J.

Butz, J.

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**Court Minutes**

**February 23, 2010, Continued**

- C059897      RAWAT, as Trustee, etc. v.      (Not For Publication)**  
**NEWTON et al.**  
                 The judgment is reversed. The order denying plaintiff (the Trust) leave to  
                 file the first amended complaint is reversed. Plaintiff is awarded its costs on  
                 appeal. (Cal. Rules of Court, rule 8.278 (a) (1), (2) . )  
                 BUTZ, J.  
We Concur:      Blease, Acting P.J.  
                 Cantil-Sakauye, J.
- C063425      T.S. v. THE SUPERIOR COURT OF      (Not For Publication)**  
**SAN JOAQUIN COUNTY; SAN JOAQUIN**  
**COUNTY HUMAN SERVICES AGENCY et al.**  
                 The petition for extraordinary writ is granted as to the claim of failure to  
                 provide notice in compliance with the ICWA and denied as to the remaining  
                 issue. ...  
                 HULL, J.  
We Concur:      Scotland, P.J.  
                 Butz, J.
- C060451      FIRST PRESBYTERIAN CHURCH OF ROSEVILLE et al. v. PRESBYTERY OF**  
**SACRAMENTO; SYNOD OF THE PACIFIC**  
**BY THE COURT:**  
                 Appellant's request to publish the opinion filed on January 29, 2010, is  
                 denied.  
                 SIMS, Acting P.J.

**February 24, 2010**

- C057718      THE PEOPLE v.      (Not For Publication)**  
**THEON MARCEL KAMBON**  
                 The judgment is affirmed.  
                 HULL, J.  
We Concur:      Raye, Acting P.J.  
                 Robie, J.

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**Court Minutes**

**February 24, 2010, Continued**

- C059165      THE PEOPLE v.      (Not For Publication)**  
**COREY JAMES BROWN**  
Defendant's conviction for first degree robbery in concert is reversed and the sentence is vacated. The matter is remanded to the trial court for further proceedings. The People may choose to have the plea agreement set aside and to prosecute defendant on all charges and cases against him. If the People choose not to do so, the trial court shall modify defendant's conviction to first degree robbery and impose the upper term of six years for an aggregate term of eight years eight months for all the offenses.  
BUTZ, J.  
We Concur: Hull, Acting P.J.  
Robie, J.
- C061321      THE PEOPLE v.      (Not For Publication)**  
**KENNETH DAVID BEALE**  
The judgment is affirmed.  
BUTZ, J.  
We Concur: Hull, Acting P.J.  
Robie, J.
- C061682      THE PEOPLE v. CALVIN LUCKETT      (Not For Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We Concur: Nicholson, J.  
Raye, J.
- C061894      THE PEOPLE v.      (Not For Publication)**  
**MANUEL P. SURITA**  
Defendant's conviction is affirmed. The probation condition that prohibits defendant from associating with users or sellers of marijuana, dangerous drugs, or narcotics, and/or being in places in which drugs are present is modified...  
BUTZ, J.  
We Concur: Blease, Acting P.J.  
Raye, J.

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**Court Minutes**

**February 24, 2010, Continued**

**C051841      McADAMS v. MONIER, INC.      (Certified For Publication)**

The order denying certification of the proposed CLRA and UCL classes is reversed. The definition of the CLRA and UCL classes is subject to the following proviso: The members of these classes, prior to purchasing or obtaining their Monier roof tile product, had to have been exposed to a statement along the lines that the roof tile would last 50 years, or would have a permanent color, or would be maintenance-free. (See *Tobacco II*, *supra*, 46 Cal.4th at p. 324.) The matter is remanded to determine whether the representative plaintiff can establish UCL standing as defined in *Tobacco II* and, if not, whether amendment should be permitted to add a new class representative. (See *id.* at pp. 328-329.) If the representative plaintiff satisfies the *Tobacco II* standing requirements, the UCL claim may proceed on a class basis in the trial court. The CLRA claim may proceed on a class basis in the trial court. Plaintiff is awarded his costs on appeal. (Cal. Rules of Court, rule 8.278(a) (1), (2) . )

BUTZ, J.

We Concur:    Sims, Acting P.J.  
                     Cantil-Sakauye, J.

**C061089      ACOSTA v. SACRAMENTO COUNTY      (Not For Publication)  
EMPLOYEES' RETIREMENT SYSTEM  
et al.**

BY THE COURT

It is ordered that the opinion filed herein on February 19, 2010, be modified as follows: the word "psychiatrist" in the first sentence on page 7 should be deleted.

This modification does not change the judgment.

SIMS, Acting P.J.

Nicholson, J.

Raye, J.

**February 25, 2010**

**C060542      THE PEOPLE v. TOUSAN STEWART      (Not For Publication)**

The judgment is affirmed.

ROBIE, J.

We Concur:    Raye, Acting P.J.  
                     Butz, J.



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**Court Minutes**

**February 25, 2010, Continued**

- C060212      LEWIS et al. v. PEPPER CONSTRUCTION      (Not For Publication)**  
**COMPANY PACIFIC**  
The judgment is affirmed. Pepper is awarded its costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (2) . )  
NICHOLSON, J.  
We Concur: Scotland, P.J.  
Raye, J.
- C060259      CARROLL v. WEINER      (Not For Publication)**  
The order is affirmed. Each party shall bear his own costs. (Cal. Rules of Court, rule 8.278 (a) (5) . )  
SIMS, J.  
We Concur: Scotland, P.J.  
Blease, J.
- C061315      In re G.P.; SACRAMENTO COUNTY      (Not For Publication)**  
**DEPARTMENT OF HEALTH AND**  
**HUMAN SERVICES v. MARIE P.**  
The order of the juvenile court is affirmed.  
NICHOLSON, J.  
We Concur: Scotland, P.J.  
Robie, J.

**February 26, 2010**

- C062626      THE PEOPLE v. ANTHONY CAPPS      (Not For Publication)**  
The judgment is modified to order defendant to pay the court security fee of \$20 per conviction, totaling \$340. ... As modified, the judgment is affirmed.  
...  
CANTIL-SAKAUYE, J.  
We Concur: Sims, Acting P.J.  
Raye, J.
- C053715      WILLIG et al. v. MAMMOTH SKI AREA      (Not For Publication)**  
**THE COURT**  
It is ordered that the opinion filed herein on January 27, 2010, be modified...  
There is no change the judgment.  
Plaintiffs' petition for rehearing is denied.  
BLEASE, Acting P.J.  
Nicholson, J.  
Raye, J.